

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN

Monday, September 12, 2016 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Guy Gentry, President; Bill Byers, Doris Horn, Amanda Mosiman, Brad Overton and Jeff Willis.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Sheila Lacer, Staff.

MEMBERS ABSENT: Richard Reid

Roll call was taken with a quorum declared present.

The President explained the Rules of Procedure to the audience.

MINUTES: Upon a motion by Doris Horn and seconded by Bill Byers the Minutes of the last regular meeting held August 8, 2016, were approved as circulated.

SUBDIVISIONS FOR PRIMARY PLAT APPROVAL:

PP-16-13 – ALCOA-APGI SUBDIVISION by ALCOA-APGI, Monica Trott, Dir. Of Global Real Est. OWNER: ALCOA and ALCOA Generating Corp by Monica Trott, Dir. Of Global Real Est. 1053.15 acres located on the S side of SR 66 approximately 0' SW of the intersection formed by SR 66 & SR 61, Anderson Twp. *Complete legal on file. Advertised in the Standard September 1, 2016.*

Mike Lynn, Land Manager with ALCOA and Kevin Hennessy, LS was present.

The President called for a staff report.

Mrs. Rector said they have submitted all the return receipts from certified mail to notice of the adjacent property owners except for Intermodal Equipment. She said the zoning on the property is "M-2" General Industrial and a portion of the property lies in an AE Flood Plain. She said any permits in that area will require a certified plot plan showing any proposed building will be 2' above the BFE. She explained this is a four lot subdivision and there are no interior streets were done. She said the Commissioners ruled that no improvements to Darlington Road would be required. She said the Drainage Board ruled no drainage plan was required. She explained they have their own wastewater treatment facility on site and the water is on site. Mrs. Rector said they are re-creating parcel lines to clean up title and a statement on the plat reads "*The purpose*

of this subdivision is to create a Parcel (Lot 1) that contains all features associated with the Alcoa Generating Corporation. Lots 2, 3 & 4 are platted for the purpose of creating updated descriptions of the remaining tracts of effected parcels by the subdividing for Lot 1. Ownership of Lots 2, 3 & 4 is to remain with Aluminum Company of America. She said the plat is in technical conformity.

Mr. Lynn said this is trying to align the various sub properties to match the separate corporate entities under ALCOA.

Ascertaining there were no questions from the Board and being no remonstrators present, the President called for a motion.

Brad Overton made a motion to approve PP-16-13. The motion was seconded by Doris Horn and unanimously carried.

PP-16-14 – ALLEN MEDICAL SUBDIVISION by MSK Holdings, LLC, Phillip Rawley, Pres. OWNER: MSK Holdings, LLC by Philip Rawley, Pres.. 55.785 acres located on the N side of Warrick Trail approximately 0' NE of the intersection formed by Epworth Rd & Warrick Trail. Ohio Twp. *Complete legal on file. Advertised in the Standard September 1, 2016.*

Jim Farney, PE, Lochmuller Group and Marco DeLucio, attorney was present.

The President called for a staff report.

Mrs. Rector said they have submitted all the return receipts from certified mail of notice to the adjacent property owners. She said the property is zoned "C-4" General Commercial that was recently approved by the County Commissioners. She said the majority of the property lies within a Zone AE Flood Plain. She said all buildings will require a certified plot plan showing the first floor elevations will be 2' above the BFE or they will have to fill the area and file a LOMA. She said she believes they plan on obtaining the LOMA. She explained this is a three lot subdivision and the street construction plans were approved by Commissioners. She added they also have an ingress/egress easement (Allen Drive) that will cross the parking lot that can also be used as access to all the lots and this is allowed in the Comprehensive Zoning Ordinance which reads: "Non Residential lots located within a subdivision plat in a "C-1" Neighborhood Commercial zoning district that do not front and have direct ingress and egress to and from the proposed building site from a dedicated street or right-of-way maintained by the county or other participating jurisdiction, shall be properly demonstrated to the Commission as to adequate ingress and egress for each use/structure. This must be clearly documented as an egress/ingress easement on the plat. *Amended 1/9/12*

The easement must have only one way in and out and shall not be a connector between two (2) roadways. The easement shall be designed and built to the same standards as a private street as described in the Subdivision Control Ordinance. Said easement shall be given a "street name" for addressing purposes if necessary. She said since it is part of the Thoroughfare Plan, they are also dedicating half of the right of way for Vann Road along the northern edge of this

property and they also have to purchase some additional property from the Schnurs for the turn into Vann Road and that will have to be added to the secondary plat. She explained they will need to file for commercial driveways for each building prior to permits being issued. Mrs. Rector then stated the Drainage Board has approved their drainage plans and Newburgh Sewer has submitted a letter stating they have the capacity to service the subdivision and Chandler Water has submitted a letter stating they have water capacity. She added this is a proposed 3 lot commercial subdivision and it is in technical conformity.

Ascertaining there were no questions from the Board and being no remonstrators present, the President called for a motion.

Doris Horn made a motion to approve PP-16-14. The motion was seconded by Amanda Mosiman and unanimously carried.

OTHER BUSINESS:

Wyngate "A" ~ Sidewalk waiver request

Chris Miller was present.

Mrs. Rector said Bruce Miller was present last month and stated they would be coming back with this request to waive certain sidewalks in Wyngate. She said she spoke with Bobby Howard, County Engineer about this waiver and he understands the request and stated he has no objection.

Chris Miller said the reason for the request is due to the grade of the property. He said these houses are zero lot lines and coming to the street there is approximately a 15 foot fall so it is more of a component of cutting out those areas. He said across the street from the areas there are sidewalks.

Guy Gentry said so he is asking to waive sidewalks on the areas they have marked in red highlight.

Mr. Miller said that is correct.

Jeff Willis asked if there is a sidewalk across Lot 9.

Guy Gentry said it stops at the driveway he believes.

Mr. Willis and Mr. Miller discussed the location of sidewalks.

Jeff Willis said there is no sidewalk across from lot 9.

Brad Overton asked about pick up for school buses.

Guy Gentry said the bus doesn't go into the subdivision. He said the students come out to the bottom and there are no sidewalks going out to the bottom.

Mrs. Rector asked Attorney Doll if perhaps the people who own lots in the subdivision should be noticed of this since they bought lots believing sidewalks would be constructed there.

Attorney Doll questioned if the plat shows the sidewalks to which Mrs. Rector explained they are shown on the street construction plans but not the recorded plat. She said we are holding Letters of Credit for the construction of the sidewalks.

Mrs. Rector said her question is should the owners of the lots be given notice of the proposed waiver.

Attorney Doll said you can never go wrong from notice but since the sidewalks aren't shown on the plat it won't be an amendment of the plat they would be waiving them from the street construction plans.

Mrs. Rector said in the original plat approval this Board would have had to waive the sidewalks.

Attorney Doll said he didn't care if they called it a footnote waiver to the plat or an amendment to the plat but it would require notice to all of the existing home owners in that section of the subdivision.

Brad Overton said it would make sense; if someone bought a lot assuming there would be sidewalks they should know.

Mrs. Rector said she didn't think about giving notice until they started talking about it.

Attorney Doll stated he didn't think they could waive anything without giving proper notice.

Mrs. Rector said so they should give a 21 day notice just like any other application.

Attorney Doll said it is his recommendation they table this for purpose of notice and then they can reconsider it next month.

Amanda Mosiman made a motion to table the sidewalk waiver to next month pending the notification to the homeowners in Wyngate Sec. A.

Jeff Willis asked if they should table it for two months and let them decide when they want to be here.

Chris Miller said next month would be great.

Mrs. Rector said they are trying to get Letters of Credit transferred over to another bank. She said the next meeting will be October 10, 2016.

Attorney Doll advised that is assuming they get with Mrs. Rector to get the notice and get them sent out. He said they need to get started on that tomorrow to make sure there isn't a snag with the time.

The motion was seconded by Brad Overton and unanimously carried.

Mrs. Rector asked if there was anyone in the audience from Wyngate Subdivision. She said there were some people at the Commissioners meeting earlier asking about the streets in Wyngate and she thought they were coming to this meeting.

Ken Burton said he didn't know if he could speak tonight but he is interested in the roads.

Mrs. Rector said they pulled the Letter of Credit files and brought them to the meeting so she can tell him how much they are holding and when they expire. She said her office maintains the Letters of Credit but the street construction and approvals all goes through the County Engineer and Commissioners.

Mr. Burton said he lives in Section B of Wyngate.

Mrs. Rector stated the Wyngate B expires November 10, 2016 and so they have until then to either complete the work or ask for another extension. She said that isn't saying an extension will be granted by the Commissioners and they need to voice their concerns with the County Commissioners about the road conditions. She said this Board can't do anything about them.

Attorney Doll said there is a bit of a snafu with the date in that the Commissioners gave the developer a year when it was last renewed but the bank would not give a Letter of Credit for a full year; it only gave a Letter of Credit for nine months and so November 10, 2016 is the nine month date not the full year date.

Mrs. Rector asked if the new Letters of Credit have been submitted to which Mrs. Lacer replied the new bank sent an email with new letters with an expiration date of September, 2017 and so she sent them back and told them they had to have the current expiration dates. She said they haven't responded back.

Attorney Doll said it is his advice to the Board that regardless of the fact that the Commissioners gave them a one year extension they had an obligation to have it under bond and since the bank wouldn't do the last three months of the year, in reality it has to be done by November 10, 2016 or they have to bring in another bond to cover the last three months.

Mr. Burton asked how much money is bonded right now and does it include the sidewalks.

Mrs. Lacer said they are holding \$26,303.25 for streets and sidewalks; \$17,149.53 on streets and \$9,153.72 on sidewalks for Section B.

Mr. Burton asked if the work is not done by November 10, 2016, will that be paid to the County.

Mrs. Rector said they will either complete the construction and file for a street acceptance and sidewalk acknowledgment or they ask for another extension and she will say they are way over the time limits but the County Commissioners have been working with developers because of the recession. She said they will have to go back to the Commissioners and they will either say they will give them another extension or they will say they will draw the Letter of Credit. She said then she will have to get the paperwork signed and go to the bank and draw the money and have it put in escrow so the County can finish the work.

Attorney Doll said so if they are going to ask for an extension they will have to do it before November 10, 2016.

Mrs. Rector said it will have to be done by October 24, 2016.

Attorney Doll said any interested party in this project needs to be at that meeting.

Mr. Burton asked if there will be a decision made then.

Attorney Doll said the Commissioners will decide whether to grant another extension or call the bond.

Mr. Burton asked if they should be there before that meeting.

Attorney Doll said it won't be considered before then and that is presuming someone applies for something.

Mrs. Rector said if they went out next week and got all the roads done they could file for a street acceptance and they would come for that and they wouldn't be asking for any extension. She said she doesn't know what their plans are.

Mr. Burton said his purpose was actually about the condition of the roads because Section B has potholes and Bobby Howard looked at the pictures and agreed it is a safety issue. He said if it was just the sidewalks he wouldn't have anything to say.

Mrs. Rector told Chris Miller he needed to relay what happened this evening to his brother and father.

Mrs. Rector said Danny Ubelhor and Jim Morley, Jr. are present this evening because she asked them to come to the Board this evening and apologized that it wasn't noted on the Agenda. She said Kensington Subdivision received primary plat approval August 10, 2015. She said at the time the plat was approved they were granted to place sidewalks on only one side of the street but they want to change which side of the street. She said this is different from the previous

request in that the secondary has not been recorded and there are no lots sold and Mr. Ubelhor is still the owner.

Jim Morley Jr. stated when the plat was first approved they requested to only have sidewalks on the west side of Kensington Drive because the first 500' or so of the road was just roadway, there were no lots on it. He said originally the grading would shape out to have the sidewalks on the west side but now it has come to be better if they have sidewalks on the east side instead. He said they have spoken to Bobby Howard and he is okay with moving the sidewalk to the other side but Mrs. Rector said they should bring it back before this Board since it was a sidewalk issue and they had voted on which side the sidewalk should be located. He said they are not asking to have fewer sidewalks they just want to move it to the east side.

Ascertaining there were no questions from the Board and being no remonstrators the President called for a motion.

Amanda Mosiman made a motion to approve the change in sidewalk location. The motion was seconded by Brad Overton and unanimously carried.

Proposed Ordinance Change – Special Use extension of time

Mrs. Rector said she has spoken with Attorney Doll about this item. She said the Board of Zoning Appeals hears Special Uses and in the ordinance it states that Special Uses have to start up within so many months and be completed within one year. She said they have had a couple of big developments such as the Christian High School and a couple of hospitals and they can't get started within the time frames set up in the ordinance. She said the Board has been granting them waivers for longer time periods. She said they thought they should change the ordinance so in case there is ever an appeal, the ordinance says that they can give waivers. She said they can find it on page 37 of the Comprehensive Zoning Ordinance.

Attorney Doll read the Discontinuance of Special Use "If a special use is abandoned for one year or has not been completely established within one (1) year of the date granted, the special use shall be null and void unless specified elsewhere in this Article."

Mrs. Rector said so she has added in to the ordinance "If a special use is abandoned for one year or has not been completely established within one (1) year of the date granted, the special use shall be null and void **unless a written request for a longer time period is submitted and made a part of the application and approved by the Board**, unless specified elsewhere in this Article." She said she is asking the Board to direct her to advertise them, not act on them. She said then she also noticed in the ordinance was Time Limits and it mentioned Special Uses and Variances as well as Improvement Location Permits. She said the time limit for Variances is listed somewhere else and this is a repetition so she has removed the Special Use and Variance from this section.

Morrie Doll said so she is seeking permission to advertise these ordinances.

The President called for a motion.

Brad Overton made a motion to advertise the ordinances for the next meeting. The motion was seconded by Doris Horn and unanimously carried.

ATTORNEY BUSINESS: None

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Rector said the Board of Zoning Appeals has a very controversial application filed for September about a confined feeding operation. She questioned if this should be on the record.

Guy Gentry said he has been looking online for information and he knows they can't discuss this or act on it but he thinks the Board of Zoning Appeals members as well as Plan Commission ...did they file the rezoning.

Mrs. Rector said they decided to hold off for a month.

Guy Gentry said he is hearing out in the public about the odor and he knows the applicant says there is no odor and he has no idea. He said he would like to talk to some people in the area that have similar types of housing operations.

Amanda Mosiman said the housing they are using will be fully enclosed. She said turkey barns in this area are not enclosed and so that is a totally different housing. She said it is all about the ventilation and air exchange regarding odor control. She said Dubois County is one of the highest concentrations of those type of chicken farms. She said they aren't layers there they are pullet houses but it is the same type of housing. She said they would have to go up near Fort Wayne to get a high concentration of the laying houses.

Attorney Doll asked if it is possible for members to tour a similar barn if they wish.

Amanda Mosiman said it isn't unheard of but they won't find anyone that will let a human into the houses. She said the bio-security protocols will prohibit that.

Guy Gentry said he wants to talk to the neighbors and hear what they say.

Brad Overton said just walk around the neighborhood.

Amanda Mosiman said Dubois County would be the closest drive similar barn. She said a laying house will actually have a lot less waste and litter. She said it is all dry litter; you are not talking manure storage or anything like that outdoors. She said it is all dry product.

Guy Gentry said they did say they would be dumping it and then it will get wet.

Amanda Mosiman said they are going to be selling it and state fertilizer laws ...

Guy Gentry said they said something about the pits.

Amanda Mosiman said they are going to sell it to farmers. She said they can have up to sixty days of storage and after that it has to be covered according to state fertilizer laws. She said they have setbacks, time limits and how it has to be covered. She said it can't be within 200' of a waterway or inlet and she can get them the law if they want to look at that too. She said so they will fall subject to that law as well as IDEM rules which are even stricter.

Several members spoke at once.

Mrs. Rector said Amanda is going to have someone come to the meeting to help the BZA.

Attorney Doll said she can maybe make someone available ...

Guy Gentry said he went on the IDEM website and they have an interactive site that shows chickens, turkeys, hogs and everything with the State of Indiana and the counties. He said it doesn't have contact information but it does at least hook you to the counties.

Amanda Mosiman said she can hook them up with the County Extension Educator in Dubois County if they give her a day or two to call him. She said if they would really like to tour she would encourage them to contact him directly because he knows those farmers and he could possibly get them in and out quickly.

Attorney Doll said they have a very small window of time in which to do this because it is going to be heard in two weeks.

Jeff Willis said he would just like to drive somewhere near them and see what they smell like. He said he thinks most of them are expecting something like what is in Sebree.

Mrs. Rector said she has been doing a lot of reading of this and there are so many State and Federal regulations on these types of buildings and what they are doing. She said they aren't going to be allowed to put waste in the water and IDEM is going to be all over this. She said there are Federal Storm Water Prevention Laws they will have to follow and if the BZA should approve this everything they would do would be great and fine but there are Federal and State regulations that will be a lot more powerful than the BZA.

Jeff Willis asked why they needed anything since the property is zoned Agriculture.

Amanda Mosiman said is zoned for agricultural use but they need a Special Use for the confined feeding. She said they will have to rezone to move the egg processing plant there. She said that is very similar to what they have out in front of the Wal-Mart in the industrial park. She said that is the rezone issue. She then said if the zoning is coming to the APC she doesn't want to be involved with the BZA application but if they want a colleague to come in to help answer some of the questions.

Attorney Doll asked if several of the members would want to tour a facility in Dubois County if Amanda could arrange it.

Mrs. Rector said the members can't go together.

Attorney Doll said no more than four can go together unless they call a Special Session.

Mrs. Rector said they can't discuss it with each other either.

Attorney Doll said they can't make a final decision or anything like that – it would be education only. He said they could do it as an Executive Session. He said or would they want to see if Amanda could get a colleague to come in as a technical advisor who isn't involved in this request or the remonstrations to answer technical questions about confined feeding.

Mrs. Rector said she would like to have someone there.

Jeff Willis said he thinks it would help. He said because people will think the applicants are biased and will say whatever to get approval.

Mrs. Rector said she has been telling all the people who call the office that all she can do is repeat what she has heard because she has never been to one and didn't know anything about them before this. She said but Amanda came to the site review meeting to help her understand what was going on and she definitely helped her. She said when Amanda told her the facility won't smell she believes her because she has no investment in this.

Brad Overton said he understands they will be housing workers.

Amanda Mosiman said bio-security is intense on these operations. She said one degree of temperature fluctuations can throw productions off so as far as alarms and temperature and feeding and water – they will have 24 hour people on duty. She said bio-security is showers in and showers out and they won't be in the barns with their own clothes or shoes. She said so the housing is a lunch area because they can't eat in the barns and showers and lockers; it is not housing 40 people 24 hours a day but it will house overnight workers. She said there won't be that many but these facilities need human supervision.

Mrs. Rector said they are completely fenced in and they even have to wash the vehicles coming in and out to avoid contamination.

Bill Byers asked what happens to the chickens when they stop laying.

Amanda Mosiman said they will either not enter the food chain or they will be composted. She said she can't actually answer because it depends on the farm and its protocol. She said they can ask. She said composting takes about 30 days. She said they composted all the dead birds (from the flu) and it took 30 days.

Bill Byers asked how old they last; 2-3 years.

Amanda Mosiman said it depends on their genetics. She said some places get 4-5 years out of their birds. She said that is another question for their production guys. She said they could rattle that off probably down to the day.

Guy Gentry asked if the dead birds go with the manure.

Amanda Mosiman said no.

Guy Gentry asked what they do with the compost.

Amanda Mosiman said probably just put it back in the barn. She said when compost gets to a certain heat will completely kill all bugs, germs and organisms and there isn't anything left. She said larger animals like swine or bovine the bones take longer to compost but chickens there isn't anything left.

Mrs. Rector said she told the BZA members they can vote to approve deny or continue; they don't have to make a decision that night. She said she told the applicants they are going to have to do a lot of educating to the board members and to the public.

Guy Gentry asked if they have had any meetings with the public.

Amanda Mosiman said the public has been having meetings.

Mrs. Rector said they sent letters with their notice and then Prime Foods sent out a separate letter introducing themselves and explaining what they want to do and that they would come to meet with them. She said Facebook is full of posts and there is a lot of misinformation out there. She said she got a phone call from a developer of a subdivision near there who is going to try to get them to invite Prime Food out to their meetings.

Amanda Mosiman said a couple of other things she wanted to bring up on this and learning from colleagues across the State who have done this numerous times – do we have the procedure in place for remonstrance for limiting time limits. She said we have this electronic technology that she would like to be able to have people load their stuff on to the monitors and TV so people can see everything.

Discussion ensued over the monitors and if Prime Foods would have a PowerPoint demonstration.

Bill Byers said he sat in the back row today during the Commissioners meeting and he couldn't hear anything.

Mrs. Rector said they probably didn't have their microphones on.

Amanda Mosiman said it will be harder with all the people in here murmuring. She added they need to have a Deputy present at that meeting. She said the Extension sees this all the time.

Mrs. Rector said she will call the Sheriff's Office and make that arrangement. She added Prime Foods may ask to have this continued for another month. She said she won't be surprised if they don't. She said they have an option for a certain time period but she won't be surprised.

Brad Overton made a motion to adjourn. The motion was seconded by Doris Horn and unanimously carried. Being no other business the meeting adjourned at 7:00 p.m.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director